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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,242	06/27/2003	John C. Pederson	E30.2-10822	7746
490	7590	09/08/2004	EXAMINER	
VIDAS, ARRETT & STEINKRAUS, P.A. 6109 BLUE CIRCLE DRIVE SUITE 2000 MINNETONKA, MN 55343-9185			LIEU, JULIE BICHNGOC	
		ART UNIT		PAPER NUMBER
				2636

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/609,242	PEDERSON, JOHN C.
	Examiner Lieu Julie	Art Unit 2636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 June 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 2-25 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>6/27/03</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

1. This Office action is in response to the amendment filed June 27, 2003. Claims 48-105 have been canceled. New claims 1-25 have been added.

### ***Double Patenting***

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-16 and 17-25 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3, 5, 6, 11, 13-17, 19-23 and 30-38 of U.S. Patent No. 6,590,502. Although the conflicting claims are not identical, they are not patentably distinct from each other because the limitations of these claims are the same except that claim 1 of the present invention is broader in that it is recited "at least two different types of

visually distinct warning light signals" while the patent recited "more than two types of visually distinct warning light signal", which is substantially the same.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3, 7-11, and 14-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schugt et al. (US 5,934,694) in view of Hall (US Patent No. 5,585,783).

**Claim 1**

Schugt et al. discloses a warning light for use with a motorized vehicle. The warning light in Schugt is movable with respect to the motorized vehicle. The light structure in Schugt does not include the claimed features of light support having front side, a single row of LEDs, a controller to provide more than two different types of visually distinct warning light signals. However, the use of a warning of the such claimed features is old in the art as taught by Hall.

Hall teaches:

- a. A light support 22 having a front side (fig. 1)
- b. A plurality of LEDs 16 arranged about and extending from the front side of the light support 22

c. A controller U1 in communication with light sources for selectively activating the LEDs thereby producing more than two different types of visually distinct warning light signals (that is, continuous, flashing, or rotating)(see fig. 5), the LED receiving power from a power source wherein the light support .

Therefore, it would have been obvious to one skilled in the art to use a warning light of Hall's in the system of Schugt because the warning light in Hall would attract a viewer's attention more than the light in Schugt since it is capable of producing many different types of lighting affect.

The signaling system in Schugt rotates. One skilled in the art would have readily recognized that a gyrator is used in the system of Schugt. It would have been obvious to one skilled in the art to use the gyrator in the combined system of Schugt and Hall because it may be used to further provide oscillating motion of the light, which is preferred in Schugt.

Claim 2:

The light support in Hall comprises a backside having a second visible exterior surface having a plurality of LEDs arranged about and attached to the second visible exterior surface.

Claim 3:

The controller U1 independently controls the LEDs on the first visible exterior surface and a second visible exterior surface for the provision of different warning light signals on the first visible exterior surface and the second visible exterior surface.

Claim 7:

The vehicle in Schugt is a utility vehicle.

Claim 8:

Hall suggests in the background of the invention that the light is a marker light employed on vehicles and to be used as a hazard warning device used by fire or police departments, which explicitly suggests that the light is used on emergency vehicle.

Claim 9:

Schugt et al. discloses a warning light for use with a motorized vehicle. The warning light in Schugt is movable with respect to the motorized vehicle. The light structure in Schugt does not include the claimed features of light support having front side, a single row of LEDs, a controller to provide more than two different types of visually distinct warning light signals. However, the use of a warning of the such claimed features is old in the art as taught by Hall.

Hall teaches:

- d. A light support 22 having a front side (fig. 1)
- e. A plurality of LEDs 16 arranged about and extending from the front side of the light support 22
- f. A controller U1 in communication with light sources for selectively activating the LEDs thereby producing more than two different types of visually distinct warning light signals (that is, continuous, flashing, or rotating)(see fig. 5) at least in one combination, the LED receiving power from a power source wherein the light support .

Therefore, it would have been obvious to one skilled in the art to use a warning light of Hall's in the system of Schugt because the warning light in Hall would attract a viewer's attention more than the light in Schugt since it is capable of producing many different types of lighting affect.

The signaling system in Schugt rotates. One skilled in the art would have readily recognized that a gyrator is used in the system of Schugt. It would have been obvious to one skilled in the art to use the gyrator in the combined system of Schugt and Hall because it may be used to further provide oscillating motion of the light, which is preferred in Schugt.

Claim 10:

The light support in Hall comprises a back side having a second visible exterior surface having a plurality of LEDs arranged about and attached to the second visible exterior surface.

Claim 11:

The controller U1 independently controls the LEDs on the first visible exterior surface and a second visible exterior surface for the provision of different warning light signals on the first visible exterior surface and the second visible exterior surface.

Claim 14:

Schugt et al. discloses a warning light for use with a motorized vehicle. The warning light in Schugt is movable with respect to the motorized vehicle. The light structure in Schugt does not include the claimed features of light support having front side, a single row of LEDs, a controller to provide more than two different types of visually distinct warning light signals. However, the use of a warning of the such claimed features is old in the art as taught by Hall.

Hall teaches:

- a. A light support 22 having a front side (fig. 1)
- b. A plurality of LEDs 16 arranged about and extending from the front side of the light support 22

c. A controller U1 in communication with light sources for selectively activating the LEDs thereby producing more than two different types of visually distinct warning light signals (that is, continuous, flashing, or rotating)(see fig. 5) at least in one combination.

Therefore, it would have been obvious to one skilled in the art to use a warning light of Hall's in the system of Schugt because the warning light in Hall would attract a viewer's attention more than the light in Schugt since it is capable of producing many different types of lighting affect.

The signaling system in Schugt rotates. One skilled in the art would have readily recognized that a gyrator is used in the system of Schugt. It would have been obvious to one skilled in the art to use the gyrator in the combined system of Schugt and Hall because it may be used to further provide oscillating motion of the light, which is preferred in Schugt.

Claim 15-25:

Both reference suggest the use of different light pattern to cause visual effect. Thus, it would have been obvious to one skilled in the art to use any pattern of signals as desired. It is only a matter of choice in design as to what pattern the lights should have.

6. Claims 4, 5, 12, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hall (US Patent No. 5,585,783) and in view of Deese (US Patent No. 5,806,965).

Claims 4 and 5:

The Hall reference fails to disclose LEDs of different colors. However, Deese teaches the use of different colored LEDs and controlling the LEDs to create at least one of a single

colored light signal and at least one of a multi-colored warning light signal. Col. 7, last paragraph. It would have been obvious to one skilled in the art to use colored LEDs and the warning patterns taught in Deese in the combination of Hall and Schugt because it would provide a more effective warning signal.

Claims 12 and 13:

The Hall reference fails to disclose LEDs of different colors. However, Deese teaches the use of different colored LEDs and controlling the LEDs to create at least one of a single colored light signal and at least one of a multi-colored warning light signal. Col. 7, last paragraph. It would have been obvious to one skilled in the art to use colored LEDs and the warning patterns taught in Deese in the combination of Hall and Schugt because it would provide a more effective warning signal.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schugt et al. (US 5,934,694) in view of Hall (US Patent No. 5,585,783) and further in view of Miyamoto et al. (US Patent No. 5809,681).

Claim 6:

Neither of the reference suggests a warning light signal in the form of a directional indicator. However, this concept is conventional in the art as shown in Miyamoto (fig. 4). In light of this teaching it would have been obvious to one skilled in the art to readily recognize the desirability of applying this idea in the combined system of Schugt and Hall because it would allow the combined system to be used in traffic direction environment.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lieu Julie whose telephone number is 571-272-2978. The examiner can normally be reached on Mon-Fri 9AM-6PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Hofsass can be reached on 571-272-2981. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Julie Lieu  
Primary Examiner  
Art Unit 2636

Sept 3, 04